

herein described property for a public utility use (building), pursuant to Section 1A03.3B.8 of the Baltimore County Zoning Regulations, for the metering and regulating of natural gas. Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County. I/We do solemnly declare and affirm under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition. Legal Owner(s): Contract Purchaser: BALTIMORE GAS AND ELECTRIC COMPANY Signature A. E. Lundvall, Jr. Vice President - Supply (Type or Print Name) City and State Attorney for Petitioner Baltimore Gas and Electric Company, John B. Howard P. O. Box 1475 Baltimore, MD 21203 210 Allegheny Avenue P. O. Box 5517 tract purchaser or representative to be contacted Towson, MD 21204 Name Baltimore Gas and Electric Company City and State P. O. Box 1475
Baltimore, MD 21203 234-5669 ORDERED By The Zoning Commissioner of Baltimore County, this ______6tb_____ day August 19.84, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning County, on the _____25th ____ day of __September____, 19_84_, at 10:30 o'clock Z.C.O.-No. 1

September 18, 1984

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. The Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of

In view of your client's proposal to construct an additional building on this site, the variance for setbacks and percent of land coverage is

This property was the subject of a previous hearing (Case #1570-S). in view of the fact that said hearing specifically mentioned the demensions

of the proposed building at that time and your client is now constructing

an additional building, the special exception is also required.

Committee at this time that offer or request information on your

Enclosed are all comments submitted from the members of the

petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate

NICHOLAS P. COMMODARI

Zoning Plans Advisory Committee

Michelos B. Commadarifia

RE: Case No. 85-87-XA (Item No. 27)
Petitioner - Balto. Gas & Electric Co.
Special Exception and Variance Petition

John B. Howard, Esquire

Towson, Maryland 21204

the requested zoning.

and a hearing scheduled accordingly.

210 Allegheny Avenue

Dear Mr. Howard:

PETITION FOR SPECIAL EXCEPTION 85-87-1

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Law and Zoning Regulations of Baltimore County, to use the

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

BALTIMORE COUNTY ZONING, PLANS ADVISORY COMMITTEE PETITION AND SITE PLAN EVALUATION COMMENTS

INTER-OFFICE CORRESPONDENCE Arnold Jablon TO Zoning Commissioner Date September 12, 1984

BALTIMORE COUNTY, MARYLAND

Norman E. Gerber, Director FROM Office of Planning and Zoning Baltimore Gas & Electric Company

This office is opposed to the granting of the portion of the petition requesting a variance to the requirement that more than 10% of the site be covered by impermeable surfaces.

Office of Planning and Zoning

NEG/JGH/sf

SURJECT No. 85-87-XA

BALTIMORE COUNTY
DEPARTMENT OF PUBLIC WORKS
TOWSON, MARYLAND 21204

HARRY I PISTEL, P. E. DIRECTOR

August 31, 1984

Mr. Arnold Jablon Zoning Commissioner County Office Building Towson, Maryland 21204

> Re: Item #27 (1984-1985) Property Owner: Baltimore Gas and Electric Co. S/WS Beaver Dam Rd. 603 S. Shawan Rd. Acres: 1.028 District: 8th

The following comments are furnished in regard to the plat submitted to this office for review by the Zoning Advisory Committee in connection with the subject

As no public facilities are involved, this office has no comment other than the following.

based on the centerline of the existing road.

The Petitioner must provide necessary drainage facilities (temporary or permanent) to prevent creating any nuisances or damages to adjacent properties, especially by the concentration of surface waters. Correction of any problem

Beaver Dam Road shall ultimately be improved with a 70-foot right-of-way

which may result, due to improper grading or improper installation of drainage facilities, would be the full responsibility of the Petitioner. Development of this property through stripping, grading and stabilization could result in a sediment pollution problem, damaging private and public holdings downstream of the property. A grading permit is, therefore, necessary for all grading, including the stripping of top soil.

> GILBERT S. BENSON, P.E., Aspt. Chief Bureas of Public Services

Mr. Arnold Jablon Zoning Commissioner County Office Building Towson, Maryland 21204

Property Owner: Baltimore Gas+ Electric Co. Location: Suls Beaver Dan Rd. S of Shawan Rd.

The Division of Current Planning and Development has reviewed the subject petition and offers the following comments. The items checked below are

There are no site planning factors requiring comment.

A County Review Group Meeting is required.

A County Review Group meeting was held and the minutes will be forward by the Bureau of Public Services.

This site is part of a larger tract; therfore it is defined as a subdivision. The plan must show the entire tract.

A record plat will be required and must be recorded prior

A record plat will be required and must be recorded prior to issuance of a building parmit.

The access is not satisfactory.

The circulation on this site is not satisfactory.

The parking arrangement is not satisfactory.

Parking calculations must be shown on the plan.

This property contains soils which are is ined as wetlands, and development on these soils is prohibited.

Construction in or alteration of the floodplain is prohibited under the provisions of Section 22-98 of the Development Regulations.
)Development of this site may constitute a potential conflict with the Baltimore County Master Plan.
)The amended Development Plan was approved by the Planning Board

(×)Landscaping should be provided on this site and shown on the plan.

()The property is located in a deficient service area as defined by Bill 178-79. No building permit may be issued Latil a Reserve Capacity Use Certificate has been issued. The deficient service

)The property is located in a traffic area controlled by a "D" level intersection as defined by 8111 178-79, and as conditions change traffic capacity may become more limited. The Basic Services Areas are re-evaluated annually by the County Council.

Recreation + Parks. King money conselling Rox ofarts.

The alignment of the proposed driveway must be

BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-3353 August 30, 1984 John B. Howard, Esquire CERTIFICATE OF POSTING 210 Allegheny Avenue POB SPW IAL EXCR. TION AND VARIANCES P. O. Box 5517 ZONING DEPARTMENT OF BALTIMORE COUNTY ARNOLD JABLON ZONING COMMISSIONER Towson, Maryland 21204 85-87-XA ZONING: Petitions for Special Exception and Variances LOCATION: Northwest side Beaver Dam Road, 3,317 ft. Southeast of the centerline of Shawan Road DATS & TIME: Tuesday, September &, 1984 at 10:20 A.M.
PUBLIC REARING: Room 104, County Office Building, 111 W. Cheenpake Avenue, Towson, Maryland NOTICE OF HEARING CERTIFICATE OF PUBLICATION Date of Posting 9-7-84 Re: Petitions for Special Exception and Variances NW/S Beaver Dam Rd., 2,217 ft. SE of the c/1 of Shawan Road Baltimore Gas and Electric Company - Petitioner TOWSON, MD., Sept. 6. 1984. John B. Howard, Esquire 210 Allegheny Avenue P.O. Box 5517 Case No. 85-37-XA THIS IS TO CERTIFY, that the annexed advertisement was Location of property: NW/S Bearer Da -1 Prec, 2, 217'SEOf Towson, Maryland

The Soning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing:

Petition for Special Exception for a public utility use (building), pursuant to Section 1A02.2B.5 of the Baltimore County Zoning Regulations for the metaring and regulations for the metaring and regulating of natural gue; Variances to permit a side and rear yard escheek of 30 ft. instead of the required 50 ft. and a 70 ft. secheck to the senterline of the street instead of the required 100 ft. and 40 permit 18-75 lot coverage instead of the re-Towson, Maryland 21204 JEFFERSONIAN, a weekly newspaper printed TIME: 10:30 A.M. Location of Signs: NW/side of Bears Dam Road Opport. 2,840! in Towson, Baltimore County, Md., appearing of DATE: Tuesday, September 25, 1984 the cil of Thowar Rose PLACE: Room 106, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland S.Q. aut THE JEFFERSONIAN, Dear Mr. Howard: lot overage instead of the required maximum of 10% of impermeable surface and to permit a distance between huisidings of 75 ft, ta lieu of the required 100 ft.

Being the property of Bultimore Gas and Electric Company, as shown on piet plan filled with the Zoning Department. of the above property. In the event that these Peti-In the event that these Petitions are granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be received in writing by the date of the hearing set above of made at the hearing.

By Order Of

ARNOLD JARLON,
Zoning Commissioner of Buitimore County
Sept. 6. PETITIONS FOR SPECIAL EXCEPTION AND VARIANCES
ZONING: Petitions for Special Descriptions and Variances TTE OF PUBLICATION oning Compassioner of Baltimore County PUBLIC HEARING: Room 108, County Offic Building, 111 W. Cheespaale Avenue, Tosco Maryland Cost of Advertising BALTIMORE COUNTY, MARYLAND The Zoning Commissioner of Baltimore foun by authority of the Zoning Act and Regulations Baltimors County, with a sid a public hearing: OFFICE OF FINANCE - REVENUE DIVISION BALTIMORE COUNTY, MARYLAND MISCELLANEOUS CASH RECEIPT Petrion for Bueci. 4 Exception for a public hearing:

Petrion for Bueci. 4 Exception for a public hearing:

Petrion for Bueci. 4 Exception for a public hearing:

IIS IS TO CERTIFY, that the annexed advertisement is publicated to the Bultimore County Zoning. Placetions for the measuring at it regulating of natural sets: Variances to purplished in the TOWSON TIMES, a weekly newspecial new regulated set of the stream set heatened of the required 50 ft. and a 70 ft. setbeck to the conservine of the stream heatened of the required 100 ft. and to permit 19.7% but coverage instead of the required minimum of 100 ft. and the required minimum of 100 ft. and the required minimum of 100 ft. and the required and the required minimum of 100 ft. and the r OFFICE OF FINANCE - REVENUE DIVISION No. 131938 MISCELLANEOUS CASH RECEIPT DATE 9-25-84 01-615-000 PROM: Gook Howard, Bowner 4 Fracy FOR: ada, + posting Case 85-87-1A (Batto, Gas + Electric Company) ties of the required 100 ft. Being the property of Baltimore Gas and Electric Company, as shown on plat plan filed with the Zoning Department. The TOWSON TIMES Margny and allo In the event that these Petitions are granted, a building pennit may be issued vithin the thinly (30) day appeal period. The Zoring Commissioner will, however, entertain any request for a sery of the issuence of eald permit during this Cost of Advertisement: \$ 34.98 8 837*****72981a \$2546 be received in writing by the date of the hearing by the date of the hearing ast above or made at the hearing.

BY ORDER OF ARNOLD JABLON ZONING COMMISSIONER OF BALTIMORE COUNTY 6 059*****200DQ1* \$275F VALIDATION OR SIGNATURE OF CASHIER VALIDATION OR SIGNATURE OF CASHIER Coursed Item No. 27 LAW OFFICES PETITIONS FOR SPECIAL EXCEPTION AND VARIANCES COOK, HOWARD, DOWNES & TRACY Zoning Description 8th Election District 210 ALLEGHENY AVENUE JAMES H. COOK P.O. BOX 5517 Beaver Dam Gate Station ZONING: Petitions for Special Exception and Variances (1905-1979) JOHN B. HOWARD TOWSON, MARYLAND 21204 DAVID D. DOWNES TELEPHONE DANIEL O'C. TRACY, JR Located on Beaver Dam Road Approx. 1 mile N.W. of LOCATION: Northwest side Beaver Dam Road, 2,217 ft. Southeast of + (30I) 823-4HI JOHN H. ZINK, III Texas, MD. Balto. Co. Elect. Dist. No. 8 the centerline of Shawan Road JOSEPH C. WICH, JR TELECOPIER HENRY &. PECK, JR. HERBERT R. O'CONOR, II DATE & TIME: Tuesday, September 25, 1984 at 10:30 A.M. THOMAS L. HUDSON C. CAREY DEELEY, JR. BEGINNING at a point located in the centerline of Beaver Dam Road, 2217

PUBLIC HEARING: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing: Petition for Special Exception for a public utility use (building), pursuant to Section 1A03.3B.8 of the Baltimore County Zoning Regulations for the metering and regulating of natural gas; Variances to permit a side and rear yard setback of 30 ft. instead of the required 50 ft. and a 70 ft. setback to the centerline of the street instead of the required 100 ft. and to permit 19.7% lot coverage instead of the required maximum of 10% of impermeable surface and to permit a distance between buildings of 78 ft. in lieu of the required Being the property of Baltimore Gas and Electric Company, as shown on plat plan filed with the Zoning Department. In the event that these Petitions are granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be received in writing by the date of the hearing set above or made at the hearing.

BY ORDER OF ARNOLD JABLON ZONING COMMISSIONER

OF BALTIMORE COUNTY

GEORGE K. REYNOLDS, II M. KING HILL, III ROBERT A. HOFFMAN DEBORAH C. DOPKIN CYNTHIA M, HAKN September 28, 1984

Mr. Albert Svehla Acting Facilities Planner Department of Recreation and Parks Baltimore County County Office Building Towson, Maryland 21204

> Re: Baltimore Gas & Electric Company Beaver Dam Gate Station Impermeable Surface Requirement 85-87-XA

As you will recall from our phone conferences, Baltimore Gas & Electric Company ("BG&E") appeared before the Deputy Zoning Commissioner for Baltimore County on Tuesday, September 25th, on Petitions for Special Exception and Zoning Variances to allow a gate station at the abovereferenced location for the metering and regulating of natural gas. This gate station, located in an RC-4 zone, is subject to a requirement that no more than 10% of the site be covered by impermeable surfaces. BG&E requested a variance from this requirement.

People's Counsel for Baltimore County and the Office of Planning and Zoning were opposed to the granting of any such variance from the impermeable surface requirements in the RC-4 zone. The Beaver Dam site is, however, unique in that the property is contiguous to 455.7 acres comprising the largest section of the Oregon Ridge Park. This 455 acre parcel purchased in 1969 by Baltimore County was funded in part with the United States Department of Housing

NW/S Beaver Dam Rd., 2,217' SE of the c/l of Shawan Road Baltimore Gas & Electric Co.-Petitioner Case No. 85-87-XA (Item #27) This is to advise you that \$72.98 is due for advertising and posting This fee must be paid and our zoning sign and post returned on the day of the hearing before an Order is issued. Do not remove sign until day of hearing. Please make the check payable to Baltimore County, Maryland, and remit to Mrs. Arlene January, Zoning Office, Room 113, County Office Building, Towson, Maryland 21204, before the hearing. No. 134356 OLDJABLON ng Commissioner ACCOUNT 1-01-615-000 #72.98

September 19, 1984

and Variances

RE: Petition for Special Exception

Mr. Albert Svehla September 28, 1984

and Urban Development monies ("HUD"). In exchange for approximately \$319,000.00, Baltimore County agreed in a "Contract for Grant to Acquire Land for Open Space Purposes" (attached) at section 2(b) to the following restrictions:

> The Public Body agrees to retain said land as developed for permanent and open space purposes, and the open space use or uses of said land shall be for park and recreational purposes, conservation of land and other natural resources, or historic or scenic purposes."

Also running through this 455 acre parcel are a gas pipeline easement owned by BG&E and an installed pipeline owned by Transcontinental Gas Pipe Line Corporation ("Transco") for which an easement with Recreation and Parks will be executed. Both the existing and proposed pipeline easements serve, and are thus an integral part of, the proposed facility.

At the hearing before the Deputy Zoning Commissioner, People's Counsel and Counsel for Baltimore Gas & Electric Company agreed that if the Department of Recreation and Parks would agree not to cover these pipeline easements with any impermeable surface, such open space could be included in the total site area of the Beaver Dam Gate Station. This would bring the total coverage by impermeable surface under the 10% maximum allowed and moot the requested variance. This stipulation by counsel is, of course, subject to Recreation and Parks entering into such an agreement.

It is my understanding from Stanley Schapiro, Assistant County Attorney, that given the restrictions already imposed on this parcel pursuant to the above-referenced "HUD contract," the Office of Law would have no objection to such an agreement being entered into by Recreation and Parks with BG&E and Transco. In our meeting scheduled for Friday, September 28, 1984, I will provide you with a plat depicting the location of the two gas pipeline easements referred to above, and hopefully obtain the approval of Recreation and Parks to enter into this stipulation.

MEN. SED PLANS

feet ± southeasterly from the centerline of Shawan Road; thence leaving said road

and running South 73 degrees 05 minutes West 150.00 feet; thence South 16 degrees

55 minutes East 298.51 feet; thence North 73 degrees 05 minutes East 150.00 feet

to the centerline of Beaver Dam Road; thence running with the centerline of said road, North 16 degrees 55 minutes West 298.51 feet to the place of beginning.

CONTAINING 1.028 acres of land more or less.

Mr. Albert Svehla September 28, 1984

I thank you for your prompt attention and consideration in this matter.

Yours truly,

RAH/kak Enclosure

CC: Stanley Schapiro, Assistant County Attorney Peter Max Zimmerman, Esquire William E. Colburn, Esquire John B. Howard, Esquire Jean Jung, Deputy Zoning Commissioner

PROJECT NO. MD. OSA-54

The land referred to in Sec. 2 of Part I of the attached Contract For Grant for the above Project consists of the following 2 sites, to wit:

Beginning for the same at a stone marked "A" standing in or near the center of the county road the same being the beginning of the tract called "John & Thomas Forrest" and running thence south 24° 40" east 3, 207 1/10 ft. to a stake thence south 78° 44" east 3, 094 7/10 ft. to a stone marked "B" thence south 55° 44" east 970 3/10 ft. to a white oak tree thence north 620 24" east 1,710 1/10 ft. to a stake thence north 64° 24" east 1,676 4/10 ft. to a stake thence north 72° 51" west 1,472 4/10 ft. to a stake thence binding on the center of the road between the lands of JRJ Price and the Ashland Iron Company the following nine courses and distances north 63° 6" west 198 ft. north 49° 6" west 99 8/10 ft. north 19° 29" west 803 ft. north 420 4" west 238 7/10 ft north 30° 21" west 85 7/10 ft north 24° 38" west 197 4/16 ft north 44° 29" west 231 ft north 60° 59" west 156 7/10 north 72°59" west 264 ft thence north 26° 56" east 569 2/10 ft to a stone in the county road thence bounding on the country road south 87° 56" west 829 9/10 ft thence bounding on the east side of the Black Rock Road north 19° 4" west 297 ft. north 37°4" west 585 7/10 ft thence north 67° 30" west 760 9/10 ft to a stone marked #7 SHRP thence south 28°18" west 2, 174 3/10 ft to a stone marked #1 B 180 H thence north 72° 40"west 2, 930 ft to the place of beginning.

Containing 455.0 7/10 acres more or less the magnetic variation being 4 50" west,

Page 1 of 3 pages

(1-67)

DEPARTMENT OF HOUSDIG AND URBAN DEVELOPMENT (OPEN-SPACE LAND PROGRAM)

> CONTRACT FOR GRANT TO ACQUIRE

LAND FOR OPEN-SPACE PURPOSES

BALTIMORE COUNTY MARYLAND

Exhibit

XP. OSA_54(G) Contract No.

. Project No.

MD. OSA:54

THIS Contract, consisting of this Part I and the attached Terms and Conditions Part II, Form NUD-3180b (5-68), effective on the date set out below, by and between Baltimore County, Maryland (herein called the "Public Body") and the United States of America (herein called the "Government").

WITNESSETH:

In consideration of the mutual covenants and representations hereinafter. contained, the parties herete de agree as follows:

SEC. 1. PURPOSE OF CONTRACT

The purpose of this Contract is to provide Federal financial assistance to the Public Body in the form of a grant of Federal funds (herein called the "Orant") under Title VII of the Housing Act of 1961, as amended, for the purpose of carrying out a certain open-space land project (herein called the "Project") and to state the torus and conditions under which such assistance will be extended.

SEC. 2. THE PROJECT

(a) The Public Body agrees to undertake, carry out and complete the acquisition of fee simple title that certain land located in the Eight Election District, County of Baltimore, Maryland, and described in the attached Exhibit A made a part hereof by reference thereto. The Public Body agrees to demolish the structures on the developed land and to clear the site for the development of the land for open-space uses, as set forth in this Section, if the Project involves the acquisition and clearance of developed

(b) The Public Body agrees to retain said land, as developed, for permanent open space purposes, and the open-space use or uses of said land shall be for parkand recreational purposes, conservation of land and other natural resources, or historio or sconio purposes.

SEC. 3. THE GRAIT

In order to assist the Public Body in carrying out the Project, the Covernment exposs to make a Grant in an amount equal to 50 percent of the actual cost of the Project, or in the amount of \$ 319,032 . whichever is less.

> BALTIMORE COUNTY. HARYLAND PROJECT NO. MD. 051-54

SITE NO. 2 (4 parcels)

Beginning for the first thereof at a stone marked "B" hereleere planted at the mid of the South 15 degrees 44 minutes East 1994. I feel line of the land which by Deed daled July 8, 1936 and recorded among the Land Records of Dalumore County in Liber C.W.B. Jr. No. 918, folio 513 etc. was conveyed by the Safe Deposit and Trust Company of Dalumore to William F. Kurte et al and Punfrees 8 minutes West 1721.4 feet to the second parcel of land which by by Deed deled May 18, 1331 and received emeng the Land Received of aforesaid in Liber L.McL.M. No. 637, folio 243 etc. was careveyed by G. Wilbur Miller to the Worthington Valley Company, thence bounding on the last mentioned land South 4 degrees 37 minutes East 8,017 of the land of the North 23% degrees West 66.8 perches line of the land which he had delet when the land south of the land which he had delet when the land south of the land which he had delet when the land south of the land which he had delet when the land south of the land which he had delet when the land south of the land which he had delet when the land south of the land which he had delet when the land south of the land which he had delet when the land south of the land so the land which by Daed dated February 10, 1920 and recorded among the Land Records sforesaid in Liber W.P.C. Not 521, fello 161 etc. was onveyed by Francis G. Matthews to Samuel M. Billingsley, things ounding on the sutline of said land South 28 degrees 26 midules East 2607,8 feet to the land which by Deed dated October 14, 1916 and recorded among the Land Records aforesaid in Liber C.W.B. Jr. No. 165, follo 122 etc. was conveyed by Philene Scott to Jomph H. grees East \$35 feet to the land which by Deed deted March 15, 1843, and recorded among the Land Records aforesaid in Liber W.M.I. No. 134, follo 165 etc. was conveyed by Samuel W. Worthington to E. Citting Merryman thence bounding on the outlines of the last mentioned land the two following courses and distances via North 26 degrees 51 minutes West 1916.4 feet and North 26 degrees 6 minties East 3230 feet to the place of beginning.

erds of Baltimore County in Liber R.J.S. No. 1316, felle 261, was conveyed by Morris Mechanic to M. Lee Hollman and wife, said point of beginning being size at the end of the 17th line of the land which by Deed dated July 8, 1929 and recorded among the aforesaid Land Records in Liber L.McL.M. No. 526, folio 214, was conveyed by Charica Morion Slewart to Safe Deposit and Trust Company, and running thence and binding on the land first herein referred to, as. now surveyed, South 19 degrees 18 minutes 10 seconds Fast 3617.87 feet to the land which by Deed dated October 14, 1915 and recorded among the aforesaid Land Records in Liber C.W.S. Jn No. 965, felio 132, was conveyed by Philena Scott to Jeanth Scott, thence bindington a part of the first line of said last mentioned land, as new surveyed South 68 degrees 13 minutes 90 seconds West 276.68 of feet to the end thereof and to the beginning of the land which by Indenture dated December 13, 1786 was conveyed by Charles Presser and wife to William Price, thence binding on a part of the first line of said last mentioned land as new surveyed, North 23 degrees 44 minutes 26 seconds West taxes 45 deat to the beginning of the is minutes 30 seconds West 1002.67 feet to the begining of the 17th line of the land conveyed by Charles Morton Stowart to Safe Deposit and Trust Company berein referred to, and thease binding on said 17th line, as new surveyed, North 1 degree 53 minutes 90 seconds East 1344.50 feet to the Piece of beginning Containing

tagen and the philosophic training of the fact of the first of the fact of the

Beginning for the second thereof at the beginning of the South

Deed dated Nevember 13, 1943 and recorded among the land Roc.

· Page 2: of 3

SEC. 4. - RELOCATION-GRANT-

(a) The Covernment further agrees to increase the Grant otherwise payable to the Public Body pursuant to the provisions of Section 3 hereof in an amount equal to the relocation payments which are made by the Public Body in connection with the Project, in accordance with regulations prescribed by the Secretary with respect thereto: Provided. That the amount of such increase shall in no event exceed the

(b) The Public Body agrees to make relocation payments to or on behalf of of citible families, individuals, business concerns, and nemprofit organizations in accordance with and to the fullest extent permitted by the regulations prescribed by the Secretary and within the limitations of subsection (a) hereof.

child be included in computing the amount of the Orant otherwise payable to the Public Body pursuant to the provisions of Section 3 horses?

SEG. 5. TDES OF PERFORMANCE

The Public Body agrees that it will complete the acquisition of the openmonths following the date of this Contract.

SEC. 6. COUNTERPARTS OF THE CONTRACT

This Contract may be executed in 2 counterparts, each of which shall be doomed to be an original, and such counterparts shall constitute one and the

SEC. 7. CURGES APPLICABLE TO PART II HEREOF

Marover there appears in the Terms and Conditions, Part II, of this Contract any reference to or any provision directed toward desolition and/or development activities on open-space land acquired as part of the Project authorized hereunder, such provision or reference shall be deemed to be surplusage, it being understood and agreed by and between the parties hereto that the purpose of this Contract is to provide for Federal grant to assist in the acquisition of land for epen-space;

SEC. 8. SPECIAL CONDITIONS.

Beginning for the same at the beginning of the third line of the land which by Deed dated January 21, 1354 and recorded among the Land Records of Baitimers County in Liber G.L.B. No. 2425, of Baitimers to H. Lee Hoffman and wife, and running thence and binding on a part of said third line North 23 degrees 46 minutes 30 to Hill Road, thence leaving said third line and continuing in or near the center line of try Hill Road, for lines of division the four failowing courses and distances. North 53 degrees 28 minutes 20 haveneds East 14446 feet season.

fallowing courses and distances: North 53 degrees 34 minutes 29 to become that lead feel, South 56 degrees 54 minutes 29 or beet 1.64 feet, South 56 degrees 54 minutes 20 occuming 20 or beet 1.64 feet, South 53 degrees 46 minutes 60 occuming East 143.66 or beet and south 22 degrees 46 minutes 60 occuming East 143.66

sect out fouth to descrep it intuits to seconds East \$4.00 feet to the fourth line of the land which by Deed dated November.

13, 1942 and recorded among the aforesaid Land Records in Liber 2, 1943 and recorded among the aforesaid Land Records in Liber 2, 1945. No. 1215, folio 251, was conveyed by Morris Rechanic, to H. Salong a part of said fourth line and continuing along the second line of the land first herein referred to, South 68 degrees 32 minutes 00 seconds West in all 428,45 feet to the place of hegianing.

Beginning for the third thereof at a point in the center line of land which by Deed dated October 14, 1935 and recorded among the Land Records of Baitimore County in Liber C.W.B. Jr. No. 365, 260 122, was conveyed by Philana Scott, unmarried, at al. to Jo. binding on the center line of lay Hill Road, as new surveyed, South 76 degrees 47 minutes 49 seconds East 194,05 feet and South 35 being at the end of the South 13 degrees 17 minutes 10 seconds East 26,16 feet to a point, said point of 131,15 feet line described in a Deed dated Pobruery 20, 1940 and V.J.R. No. 1878, folio 603, from John C. Walker and Dainy B. Walker, his wife, to lif. Lee lieffman and Charlotte P. lieffman, his wife, thence binding reversely along said line and leaving lay Hill intersect the first line of said land at a point located 316,55 feet at the seconds along asid line from a stone hereifore set intersect the first line of said land at a point located 316,55 feet at the beginning thereof and running thence and binding on a part of said line and on the land which by Deed dated November 13, No. 1215, felle 161, was conveyed by Herris Machania, Unmarried, minutes 00 seconds West 138,34 feet to the place of beginning. Con-

Beginning for the fourth thereof at a stone heretofore set at the beginning of the ifnd which by Dood dated October 14, 1956 and occorded emong the Lang Records of Boilimore County in Liber recorded emong the Lang Records of Boilimore County in Liber of city. Jr. No. 365, folio 123, was conveyed by Philana Scotl, unmar, ing on a part of the first line of said land, as new aurveyed, South these for the first line of said land, as new aurveyed, South these fourth 13 degrees 37 minutes 20 seconds West 1815, 25 feet to an irou pipe, the conter line of Ivy Hill Road, thence hinding thereon the two following courses and distances: South 25 degrees 55 minutes 10 seconds Past 214, 35 feet, and South 14 degrees 92 minutes 10 seconds Past 201, 35 feet to intersect the last line of the land first herein surveyed Narth 35 degrees 57 minutes 00 seconds Most 116, 15 feet les the piace of baginaing.

taining 8,4138 Acres of land, more or less,

ESC-9-CONSTRUCTION TO COVERNISH FOR ITS THE PECTIONS AND AUDITS

The Public Body will compensate the Covernment for its inspections and nudits, provided for in Section 103(B) of Part II of this Contract, a fixed fee the first requisition for a Grant payment is approved by a deduction of the entire frat, in the event the Grant amount authorized under Section 3 hereof with respect to the result cost of the Project is increased, the additional fixed fee payable thereby shall be deducted from the next Grant payment made to the Public Body.

to the state of the till the control of the state of the

BALTIMORE COUNTY, MARYLAND

PROJECT NO. ND. OSA_54.

ETHIBIT A . Page 3 of 3 pages

(SEAL)

ATTEST 1

(Eignature)

. (Typo Name and Title)

Department of Recreation and Parks.

HUBERT I. SNYDER, Director.

Baltimore County, Maryland PEOPLE'S COUNSEL

RM. 223, COURT HOUSE

TOWSON, MARYLAND 21204 494-2188

PHYLLIS COLE FRIEDMAN People's Counsel

October 22, 1984

DI WITNESS WHEREOF, this Contract has been executed in the name and on behalf

BALTIMORE COUNTY, MARYLAND

by /S/ Dale Anderson

DALE ANDERSON

County Executive

UNITED STATES OF AMERICA

Secretary of Housing and Urban Development

JEROME E. PARKER Assistant Regional Administrator for

'Metropolitan Dovalopment, Region II

RE: Baltimore Gas & Electric Co., Petitioner - Case No. 85-87-XA

(Item 27)

Dear Mrs. Jung:

Jean M. H. Jung, Deputy

Zoning Commissioner

County Office Building

Towson, Maryland 21204

On Friday, October 19, 1984, I received a copy of the proposed Opinion and Order drafted in the above-entitled matter. The Petitioner did not provide me with a prior opportunity to review the proposal. As I recall, the comment that this office would have two days to comment was premised on the idea that the substance of the Order was to be agreed on cooperatively so that a joint presentation could be made to the Deputy Commissioner.

Accordingly, I will need more than two days to prepare a different proposal on behalf of this office. I find that the Petitioner's proposal differs from the concept expressed at the hearing and contradicts important conditions referred to in correspondence dated September 18th and 26th,

It was my understanding that any agreement reached at the hearing on September 25, 1984 was tentative, subject to the preparation of easement documents satisfactory to all parties and subject to confirmation of the authority of the county to enter into the proposed transactions.

In an effort further to facilitate resolution of this case, I elaborated in my letter dated September 26, 1984 the conditions established in the Pleasant Hill Chapel case which should serve as precedent for this case. Otherwise stated, any agreement made September 26, 1984 was predicated on the ability of the parties further to agree on satisfactory documentation working out the specifics of the concept.

Accordingly, I respectfully request until Monday, November 5, 1984 to discuss the matter with Petitioner, in the event that Petitioner is interested in working out an agreed Order.

> Liter Max Lummermer Peter Max Zimmerman Deputy People's Counsel

> > AUG 1 193

Jean M. H. Jung, Deputy Zoning Commissioner

October 22, 1984

cc: John B. Howard, Esquire Robert A. Hoffman, Esquire William E. Colburn, Esquire Dennis Sutton Malcolm F. Spicer, Jr., Esquire Paul J. Solomon

- 2 -

PHYLLIS COLE FRIEDMAN

People's Counsel

Baltimore County, Maryland PEOPLE'S COUNSEL RM. 223, COURT HOUSE TOWSON, MARYLAND 21204

October 25, 198

Jean M. H. Jung, Deputy
Zoning Commissioner County Office Building Towson, Maryland 21204

> RE: Baltimore Gas & Electric Co., Petitioner - Case No. 85-87-XA

Dear Mrs. Jung:

Following up my letter dated October 22, 1984, enclosed please find the enclosed Memorandum Opinion and Interlocutory Order to be submitted in the above case.

Please note that it was substantially prepared prior to our conference of October 25th. Pursuant to that discussion, I intend to meet with Robert Hoffman, Esquire, at 11:00 a.m. on Friday, October 26th to attempt to work out the differences between the respective submissions of the Petitioner and ours.

> Les Max bounder Peter Max Zimmerman

Enclosure

cc: John B. Howard, Esquire Robert Hoffman, Esquire Malcolm F. Spicer, Jr., Esquire

Deputy People's Counsel

permissible limits of state law. Mr. Sutton also expressed concern about the appearance of the facility, but stated generally that BG&E had been

It appears from the testimony and evidence presented that, aside from the question of impermeable coverage, the use proposed by Petitioner at the particular location described by Petitioner's Exhibit 1 will not have any adverse impact above and beyond those inherently associated with such a special exception use, irrespective of its location within the zone. Schultz v. Pritts, 291 Md. 1 (1981). The testimony was convincing that, subject to the conditions necessary to satisfy BCZR 1A03.4B5, the proposed use will probably not be detrimental to the health, safety or general welfare of the locality, nor tend to create congestion of roads, streets, or alleys therein, nor be inconsistent with the purposes of the property's zoning classification, nor in any other way inconsistent with the spirit and intent of the BCZR.

Therefore, after reviewing all of the testimony and evidence presented, it appears that this amendment to an existing special exception, as applied for, should be granted, with certain conditions and restrictions as more fully described below.

With regard to Petitioner's setback variances, an area variance may be granted where strict application of the zoning regulation to the Petitioner and his property would cause practical difficulty. McLean v. Soley, 270 -Md. 238 (1973). To prove practical difficulty for an area variance a Petitioner must prove the following:

: Case No. 85-87-XA Centerline of Shawan Rd., 8th District BALTIMORE GAS & ELECTRIC COMPANY, Petitioner

PETITION FOR VARIANCES

ence of the restrictions.

Beginning at Centerline of

Beaver Dam Rd., 2217' SE of

MEMORANDUM OPINION AND INTERLOCUTORY ORDER

:::::::

RE: PETITION FOR SPECIAL EXCEPTION : BEFORE THE DEPUTY ZONING COMMISSIONER

OF BALTIMORE COUNTY

The Petitioner herein, the Baltimore Gas & Electric Company ("BG&E"), requests a special exception to allow a public utility use for the metering and regulating of natural gas and variances to permit side and rear yard setbacks of 30' in lieu of the required 50' and a front yard setback of 70' in lieu of the required 100' (herein the "setback variances"), as well as a variance to permit greater than 10% coverage of the RC-4 zoned parcel by impermeable surfaces (herein the "impermeable surface variance").

In reference to the impermeable surface variance, the parties tentatively agreed that it would be most upon the following conditions:

- 1. Baltimore County, Maryland would have to agree to restrict its use of land above two contiguous pipeline easements owned, respectively, by BG&E and Transcontinnental Gas Pipeline Corporation.
- 2. The area of these easements so restricted would be sufficient so that, in combination with the uncovered area on the subject site, the amount of impervious surface on the site would be brought under the 10%
- 3. As a prerequisite to the mooting of the variance, all parties would have to agree to the form and sufficiency of the documents prepared to carry out this intent, with a view to insuring the integrity and perman-

4. There would have to be satisfactory confirmation of the authority of the county to enter into such restrictions, so that an Opinion of the County Office of Law would be necessary.

- 2 -

The County Board of Appeals of Baltimore County had occasion previously to decide upon Pleasant Hill Chapel's requested variance to Section 1A03.4B5 (the maximum 10% impermeable restriction in RC-4 zones) and to consider the type of land transactions which might satisfactorily moot or legally satisfy the requirement. In that case, No. 82-98-A, the Board conditioned its approval upon language in the Order, plat, and easement providing the perpetual maintenance of the specified terms, conditions and restrictions without limitation; the provision that the grant is effective only so long as the easement is not limited or restricted in any manner, or until extinguished in part or in whole by a later Order of the County Board of Appeals; the references to the purposes of the arrangement, and the agreement of the parties to the easement that no modification of the agreement or alienation of the property shall occur without further Order and approval of the Board; the provision that the agreement may be enforced by duly authorized public officials and/or interested parties; and the reference in the body of the Easement Agreement to the zoning case; and the clause that the conditions of the easement shall not be amended or abandoned by the parties or their successors until further Order of the County Board of Appeals.

Furthermore, the Board expressed its special concern for the legislative purpose of environmental protection. Therefore, the interest of BG&E, a public utility, in the proposed Beaver Dam Gate Station must be considered subject to the primary goal of preserving the natural resources

and water supply watersheds of Baltimore County. In this context, the decision in Pleasant Hill Chapel must be followed and conditions required there incorporated in this Order and any accompanying documents. Moreover, reasonably cooperative through the years. it will be necessary that an Opinion of the County Office of Law be secured sustaining the authority for the participation of Baltimore County, Maryland

The Petitioner's requests are, in effect, a request for an amendment to a special exception granted on November 4, 1949, Case No. 1570-S, and for variances to enlarge an existing facility for the metering and regulating of natural gas and construct a new building or station. Thus, the Petitioner has the burden of satisfying the requirements of Sections

411 and 502.1 BCZR for the setback variances.

in the transactions.

- 3 -

The Petitioner presented testimony through C. W. Crooks, Jr., General Supervisor of Planning and Engineering for BG&E, and Mr. Robert W. Pohl, Project Manager for the subject facility. Both witnesses testified that the proposed use would be conducted without detriment to the neighborhood and would not adversely affect the public interest. Further, testimony indicated that the proposed use would result in a substantial savings to rate payers of BG&E.

Also appearing on behalf of Petitioner was Mr. Bernard Semon, a licensed real estate appraiser, who testified that operation of this facility would not adversely affect surrounding property values.

Mr. Dennis Sutton, a neighboring Protestant, complained of a loud noise emanating from the site. Mr. Pohl, the project manager, acknowledged that, in the absence of the building covering it, the operation was producing noise at levels around 70dBa. He testified, however, that following

1. That strict compliance with the requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;

- 5 -

2. That the grant would do substantial injustice to applicant as well as other property owners in the district or that a lesser relaxation than that applied for would give substantial relief; and

3. That relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured. Anderson v. Board of Appeals, Town of Chesapeake Beach, 22 Md. App. 28

It is clear from the testimony that if the variances are granted, such uses proposed would not be contrary to the spirit and intent of the BCZR and would not result in substantial detriment to the public good. Moreover, if the requested setback variances are not granted, a practical difficulty or unreasonable hardship would result, since, without the setback variances, there could be no facility as proposed and the special exception would be rendered meaningless.

Therefore, after due consideration of all testimony and evidence, it appears that the setback variances should be granted.

With regard to the impermeable surface variance, the satisfaction of the stated conditions will allow the spirit and intent of Section 1A03.4.B.5 of the BCZR to be met and render the requested variance moot.

Pursuant to the advertisement, posting of property, a public hearing held, and it appearing that by reason of the requirements of Section 411 and 502.1 having been met and the health, safety and general welfare of the community not being adversely affected, the special exception and setback variances should be granted.

Therefore, it is ORDERED by the Deputy Zoning Commissioner of Baltimore County this ____ day of ____, 1984, that the petition for special exception for a public utility use will be GRANTAD, the petition for variances from side, rear and front yard setbacks will be GRANTED, and, pursuant to the findings above, the impermeable surface variance will be rendered moot at such time as the final Order is entered in this case, which final Order is intended to be passed upon satisfaction of the following conditions and restrictions:

- 1. Transcontinental Gas Pipeline Corporation be, and hereby is, made a party to these proceedings and shall receive notice of this Order and any related proceedings.
- 2. The Baltimore Gas and Electric Company and Transcontinental Pipeline Corporation shall, respectively, enter into easement agreements with Baltimore County, Maryland, so as to prohibit impermeable coverage or surfaces upon an area sufficient so that, in ornbination with the area of the subject site, the impermeable surface is then less than or equal to the 10% permitted maximum coverage pursuant to Section 1A03.4B5, and the said easement agreements shall provide:
- (a) The terms, conditions and restrictions stated in the easement shall also be incorporated in a revised site plan, and shall 1A representative of Transco appeared at the hearing, and stated his

be perpetual and without limitation.

- (b) The said easement agreements are enforceable by any duly authorized public official.
- 3. The grant of the within special exception is not effective until approval by the Deputy Zoning Commissioner of Baltimore County of the aforesaid easement agreements and until said easement agreements and appropriate revised plat are entered into the file of this case following notice and opportunity to be heard for all parties.
- 4. Additionally, the within special exception shall be granted only so long as any approved easement agreements are not limited or restricted in any manner, or until extinguished in part or in whole by a later Order of the Deputy Zoning Commissioner, as provided in the deeds of easement.
- 5. No modification of any approved easement agreements or alienation of any of the property which is the subject of this case shall occur without further Order and approval of the Deputy Zoning Commissioner. Any proposed or actual amendment or abandonment by the parties or their successors of any conditions of the approved easement agreements shall be subject to further Order of the Deputy Zoning Commissioner.
- 6. The grant of the within special exception is also subject to the prior verification by written Opinion of the Baltimore County Office of Law that Baltimore County, Maryland, is authorized to enter into the subject deeds of easement, and subject to the approval of the County Office of Law as to form and legal sufficiency.
- 7. The subject site shall be landscaped and meet all requirements of the Baltimore County Landscaping Manual.

8. The revised site plan referred to in Paragraph 2(a) above shall also eliminate the proposed southwest driveway as shown on Petitioner's Exhibit 1.

9. The Petitioner shall comply with state regulations pertinent to allowable noise levels at receiving property lines in residential areas and, in addition, shall not operate so a 3 be a nuisance.

This Order is an interlocutory Order and is subject to further final Order of the Deputy Zoning Commissioner for the purpose of reviewing the easement agreements, revised site plan, and related documents to be submitted in accordance with this Order.

> Deputy Zoning Commissioner of Baltimore County

LAW OFFICES COOK, HOWARD, DOWNES & TRACY 210 ALLEGHENY AVENUE JA 1ES H. COOK P.O. BOX 5517 JOHN B. HOWARD DAVID D. DOWNES TOWSON, MARYLAND 21204 DANIEL O'C. TRACY, JR JOHN H. ZINK, 🎹 JOSEPH C. WICH, JR. HENRY B. PECK, JR. HERBERT R. O'CONOR, E THOMAS L. HUDSON C. CAREY DEELEY, JR

Dear Mr. Sutton:

GEORGE K. REYNOLDS, I LAWRENCE L. HOOPER, JR. M. KING HILL, 🎹 ROBERT A. HOFFMAN DEBORAH C. DOPKIN CYNTHIA M. HAHN ANGUS E. FINNEY KEVIN H. SMITH** * ADMITTED IN COLORADO ONLY ** ADMITTED IN IOWA ONLY

> HAND DELIVERED LACIO. GAS AND SLOCIER CO 95-87-XA Mr. Dennis Sutton 13500 Beaver Dam Road Cockeysville, Maryland 21030

Enclosed please find a copy of a Memorandum Opinion and Order.

November 28, 1984

JAHES D. C. DOWNES

(1906-1879)

TELEPHONE

RAH/kak Enclosure CC: William E. Colburn, Esquire Mrs. Jean Jung / Peter Max Zimmerman John B. Howard, Esquire

13500 Beaver Dam Kel BG & 5, CO Cockspill 1/1 2 1030 Dec. 6, 1984

I have read the memorandum of Nov. 28, 1984. as per our conversation of Pec. 5, 1984 I understand my response to it is desired, Basich L reiterate my positions of my letter of Oct. 23, 1984 as I see no substantial difference with the previous memorandum your some changes of the appearance and landscaping being improved is encouraging. I still think he People's Coursel wants in not needed, avoids the real though mina impact of run-off, and

The subject of present and fature noise is still as I mentioned with the falling of leaves according to my neighbors at theirs has increased. Mental Hygiere sent two members of his staff et out.
The recorded readings of 51 decibels near my house on a day that was favorable to lower readings at that point.

Although the perceived noise level has been for greater on other occassions this reading of 51 time tells me what 51 decided sounds like and although it is within the 55 limit of state law it is not an acceptable noise level to be introduced to a quiet rurel residential area via the special exception process. I believe 40 or 45 decides maximum should be written into the agreement.

BALTO. GAS & BLECTRIC CO.

13500 Beaver Dam Road Cockeysville, MD 21030 October 23, 1984

Cook, Howard, Downes & Tracy 210 Allegheny Avenue P. O. Box 5517 Towson, MD 21204

Attention: Mr. Robert A. Hoffman

Gentlemen:

In reference to Condition 1 the 10% maximum coverage is not only to allow 90% permeable surface but to guarantee 90% open space; the easements in the Park are already committed to such use. The use of these linear easements could set a precedent for all gas operations and subvert the spirit and intent of law. The permeability requirement could be met by other measures and a special exception granted by virtue of B.G.& E making a greater effort to blend their operation with the Park landscape. I believe it was testified that no plans had been drawn for the new building. After the meeting I was shown plans for a squarish, utilitarian brick building 12' in height with a flat roof--this certainly could be improved upon with little additional expenditures. If the Baltimore County Rec and Parks enters into the proposed agreement it would seem that the consideration could be for B.G. & E. to provide a more attractive view at the entrance to Oregon Ridge and looking down from the Lodge by improving their site. This would also bear on Condition 2. Special attention should be directed to Sect. IX B.b. in the Landscape Manual.

In reference to Condition 4 it was testified at the Hearing that a maximum decibel rating of 50 could be attained. This should be agreed upon due to proximity to Park activities and the possibility that wear on equipment will cause higher noise in the future.

In reference to the testimony of substantial savings to rate payers may it be pointed out that nearby residents do not receive gas service and thereby receive no benefit. Past attempts to receive such service were previously denied and more recently B.G. & E. has made it difficult to connect to their service by a combination of rules and high cost quoted.

Thank you for your kind attention.

Dennis K Sulla Dennis K. Sutton 666-0407

cc: Mrs. Jean Jung Mr. Peter Zimmerman 85-87-XA

JOHN B. HOWARD DAVID D. DOWNES JOHN H. ZINK, 🎹 JOSEPH C. WICH, JR. HENRY B. PECK, JR.

DANIEL O'C. TRACY, JR. HERBERT R. O'CONOR, M THOMAS L. HUDSON C. CAREY DEELEY, JR. GEORGE K. REYNOLDS, II M. KING HILL, III ROBERT A. HOFFMAN DEBORAH C. DOPKIN CYNTHIA M. HAHN

ANGUS E. FINNEY

LAW OFFICES COOK, HOWARD, DOWNES & TRACY 210 ALLEGHENY AVENUE P.O. BOX 5517 TOWSON, MARYLAND 21204

DEPART TELEPHONE

October 18, 1984

Mrs. Jean Jung
Deputy Zoning Commissioner for Baltimore County County Office building 111 W. Chesapeake Avenue Baltimore, Maryland 21204

Re: Petitions for Special Exception and Variances - BG&E, Petitioner

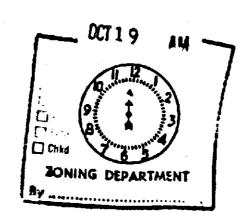
Dear Mrs. Jung:

Enclosed please find a copy of the Opinion and Order drafted in the above-referenced matter. Please let me have any comments at your earliest convenience.

Sincerely,

RAH/prd Enclosure

CC: William E. Colburn, Esquire John B. Howard, Esquire Peter Max Zimmerman, Esquire Mr. Dennis Sutton



LAW OFFICES COOK, HOWARD, DOWNES & TRACY 210 ALLEGHENY AVENUE

JOHN S. HOWARD P.O. BOX 5517 DAVID D. DOWNES TOWSON, MARYLAND 21204 DANIEL O'C. TRACY, JR. JOHN H. ZINK, III JOSEPH C. WICH, JR. HENRY B. PECK, JR. HERBERT R. O'CONOR, IE THOMAS L. HUDSON C. CAREY DEELEY, JR.

TELEPHONE (30)) 983-410

JAMES D. C. DOWNES

(IDO6-1979)

October 18, 1984

Peter Max Zimmerman Deputy People's Counsel for Baltimore County Room 223 Court House Towson, Maryland 21204

Re: Petitions for Special Exception and Variances - BG&E, Petitioner

Dear Mr. Zimmerman:

GEORGE M. REYNOLDS, ME

M. KING HILL, III

ROBERT A. HOFFMAN

DEBORAN C. DOPKIN

CYNTHIA M. HAHN ANGUS & FINNEY

Enclosed please find a copy of the Opinion and Order drafted in the above-referenced matter. As you will recall, Mrs. Jung stated that comments to this Opinion and Order are to be received by this office within 2 days from delivery.

Sincerely,

RAH/prd Enclosure

CC: William E. Colburn, Esquire John B. Howard, Esquire Mrs. Jean Jung Mr. Dennis Sutton

LAW OFFICES COOK, HOWARD, DOWNES & TRACY 210 ALLEGHENY AVENUE P.O. BOX 5517 TOWSON, MARYLAND 21204

JAMES D. C. DOWNES (1906-1979) (30)) 823-411 TELECOPIER

October 18, 1984

Mr. Dennis Sutton 13500 Beaver Dam Road Cockeysville, Maryland 21030

> Re: Petitions for Special Exception and Variances - BG&E, Petitioner

Dear Mr. Sutton:

Enclosed please find a copy of the Opinion and Order drafted in the above-referenced matter. As you will recall Mrs. Jung stated that comments to this Opinion and Order are to be received by this office within 2 days from delivery.

Robert A. Hoffman

RAH/prd Enclosure

JOHN B. HOWARD

DAVID D. DOWNES

JOHN H. ZINK, III

JOSEPH C. WICH, JR.

HENRY B. PECK, JR.

DARIEL O'C. TRACY, JR

HERBERT R. O'CONOR, J

JEORGE K. REYNOLDS, III

HOMAS L HUDSON C. CAREY DEELEY, JR

M. KING HILL, III

CYNTHIA M. PAHN

ROBERT A. HOFFMAN DEBORAH C. DOPKIN

> CC: William E. Colburn, Esquire John B. Howard, Esquire Peter Max Zimmerman, Esquire Mrs. Jean Jung

AND ZONING VARIANCES Beginning at the center line * OF of Beaver Dam Road, 2217' SE from center line of Shawan * BALTIMORE COUNTY Road - 8th Election District Case No.: 85-87-XA Baltimore Gas & Electric Company.

PETITION'S SPECIAL EXCEPTION * DEPUTY ZONING COMMISSIONER

IN RE:

Petitioner

* BEFORE THE

FINDINGS OF FACT AND CONCLUSIONS OF LAW

* * * * * *

The Petitioner herein, the Baltimore Gas & Electric Company ("BG&E"), requests a special exception to allow a natural gas and variances to permit side and rear yard set-

Before adducing testimony in these Petitions, Counsel to BG&E and Peoples' Counsel for Baltimore County, a party to these proceedings, entered into a stipulation regarding the impermeable surface variance. Counsel agreed that the variance from this requirement would be moot if

public utility use for the metering and regulating of backs of 30' in lieu of the required 50' and a front yard setback of 70' in lieu of the required 100' (herein the "setback variances"), as well as a variance to permit greater than 10% coverage of the RC-4 zoned parcel by impermeable surfaces (herein the "impermeable surface variance").

restrictions were placed on certain continguous easements.

Therefore, after due consideration of all testimony and evidence, it appears that the setback variances should be granted.

With regard to the impermeable surface variance, the stipulation entered into by Counsel will allow the spirit and intent of Section 1A03.4.B.5 of the BCZR to be met and render the requested variance moot.

Pursuant to the advertisement, posting of property, a public hearing held, and it appearing that by reason the requirements of Section 411 and 502.1 having been met and the health safety and general welfare of the community not being adversely affected, the special exception and setback variances should be granted.

Therefore, IT IS ORDERED by the Deputy Zoning Commissioner of Baltimore County this _____ day of October, 1984, the Petition for Special Exception for a public utility use be granted, the Petition for Variances from side, rear and front yard setbacks be and are hereby granted, and pursuant to the findings above the impermeable surface variance is hereby rendered moot from and after the date of this Order, subject, however, to the following conditions and restrictions:

1. BG&E and Transco shall enter into an agreement with Baltimore County to prohibit impermeable surfaces upon easements owned by Transco and BG&E sufficient in area, so that when combined with the total area of the subject site. the impermeable surfaces are less than or equal to the 10% permitted maximum coverage. Such

the area of which, when combined with the uncovered area on the subject site, would bring the impermeable surfaces under the 10% maximum.

The easements referred to are an existing gas pipeline easement owned by BG&E and an installed pipeline owned by Transcontinental Gas Pipeline Corporation ("Transco") for which an easement is in process of being executed. Both the existing and proposed pipeline easements serve, and are an integral part of, the proposed facility and traverse the Baltimore County Department of Recreation and Parks' Oregon Ridge Park.

The Petitioner's requests are, in effect, a request for an amendment to a special exception granted on November 4, 1949, Case No. 1570-S, and for variances to enlarge an existing facility for the metering and regulating of natural gas. Thus, the Petitioner has the burden of satisfying the requirements of Sections 411 and 502.1 BCZR with respect to the special exception and of Section 307 BCZR for the setback variances.

The Petitioner presented testimony through C. W. Crooks, Jr., General Supervisor of Planning and Engineering for BG&E, and Mr. Robert W. Pohl, Project Manager for the subject facility. Both witnesses testified that the proposed use would be conducted without detriment to the neighborhood and would not adversely affect the public interest. Further, testimony indicated that the proposed

agreement shall be approved by People's Counsel for Baltimore County and the Deputy Zoning

2. The subject site shall be landscaped and meet all requirements of the Baltimore County

plan which eliminates the proposed southwest driveway as shown on Petitioner's Exhibit 1.

4. The Petitioner shall comply with all State regulations with regard to noise levels as

3. The Petitioner shall submit a revised

Deputy Zoning Commissioner of Baltimore County

Commissioner for Baltimore County.

a result of the intended use.

Landscape Manual.

use would result in a substantial savings to rate payers of

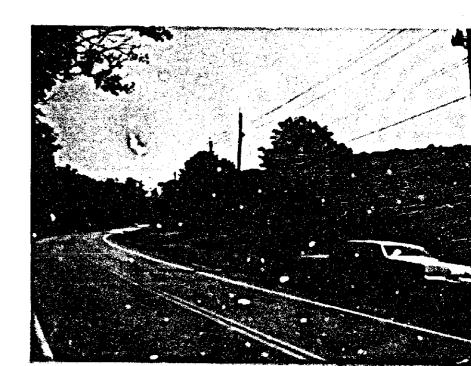
Also appearing on behalf of Petitioner was Mr. Bernard F. Semon, a licensed real estate appraiser, who testified that operation of this facility would not adversely affect surrounding property values.

Further testimony was heard from Mr. Dennis Sutton, a participant in this proceeding and neighbor of BG&E's site, who voiced certain concerns with regard to the proposed use.

It appears from the testimony and evidence presented that the use proposed by Petitioner at the particular location described by Petitioner's Exhibit 1 will not have any adverse impact above and beyond those inherently associated with such a special exception use, irrespective of its location within the zone. Schultz v. Pritts, 291 Md. 1 (1981). The testimony was convincing that the proposed use will not be detrimental to the health. safety or general welfare of the locality, nor tend to create congestion of roads, streets, or alleys therein, nor be inconsistent with the purposes of the property's zoning classification, nor in any other way inconsistent with the spirit and intent of the BCZR.

Therefore, after reviewing all of the testimony and evidence presented, it appears that this amendment to an existing special exception, as applied for, should be

BEAVER DAM GATE STATION



VIEW LOOKING SOUTHERLY ALONG BEAVER DAM ROAD FRONTAGE.



VIEW LOCKING NORTHERLY ALONG BEAVER DAM ROAD:

EMHIBIT 2

granted, with certain conditions and restrictions as more fully described below.

With regard to Petitioner's setback variances, an area variance may be granted where strict application of the zoning regulation to the Petitioner and his property would cause practical difficulty. McLean v. Solley, 270 Md. 208 (1973). To prove practical difficulty for an area variance a Petitioner must prove the following:

1. That strict compliance with the requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;

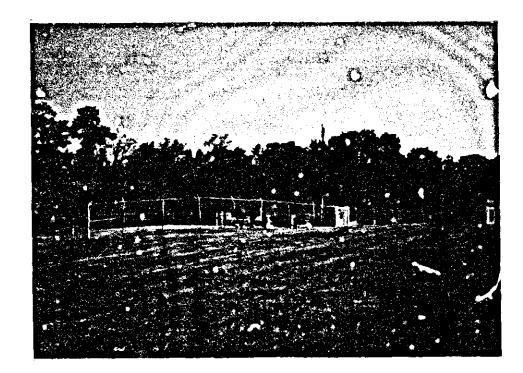
2. That the grant would do substantial injustice to applicant as well as other property owners in the district or that a lesser relaxation than that applied for would give substantial

3. That relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Board of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variances are granted, such uses proposed would not be contrary to the spirit and intent of the BCZR and would not result in substantial detriment to the public good. Moreover, if the requested setback variances are not granted, a practical difficulty or unreasonable hardship would result, since, without the setback variances, there could be no facility as proposed and the special exception would be rendered meaningless.

PHOTOGRAPHS, CONTD.



TWO VIEWS OF THE REAR PORTION OF THE SUBJECT SITE.

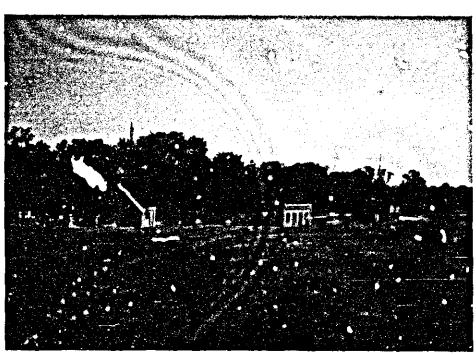


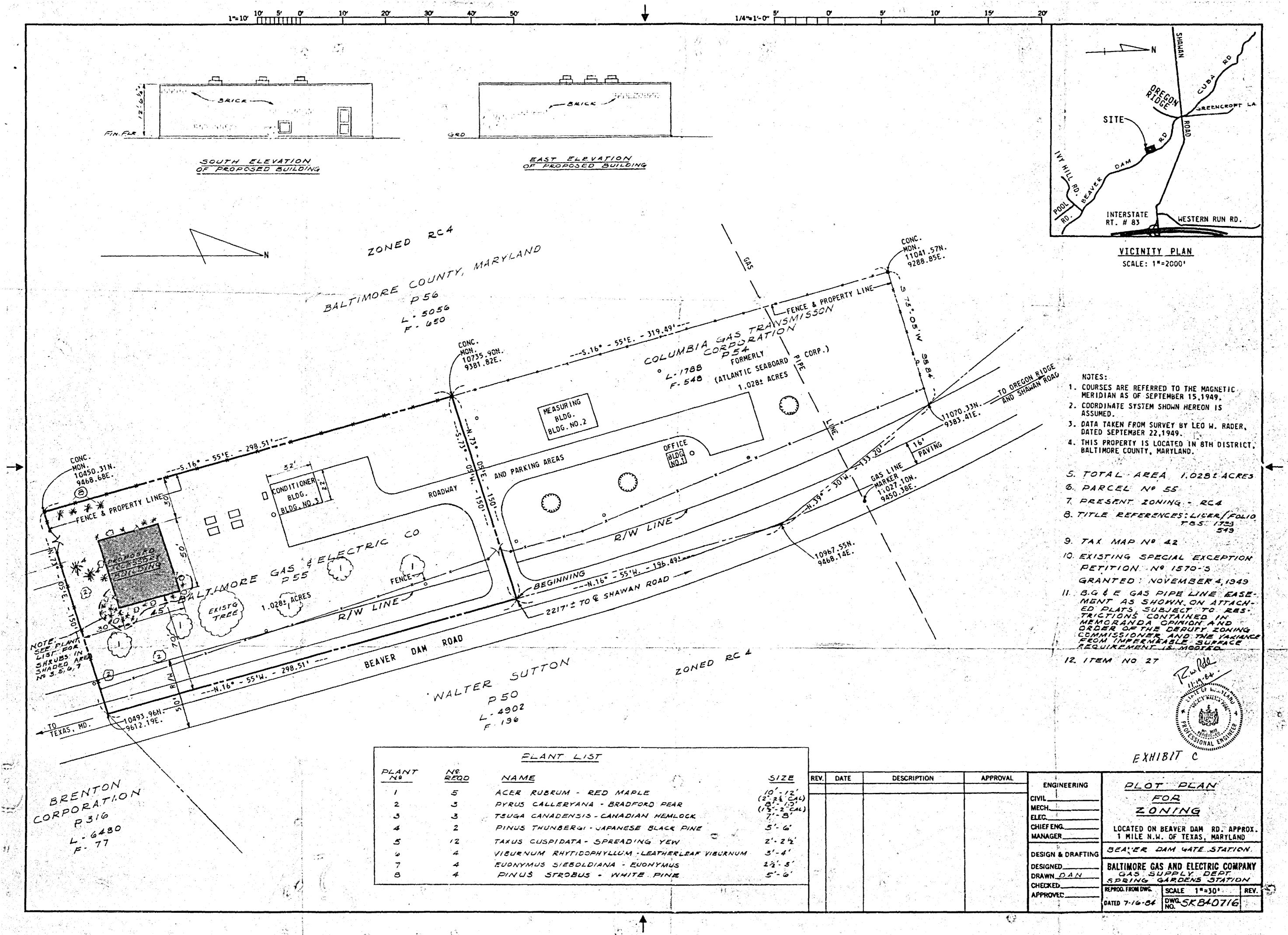
EXHIBIT 2

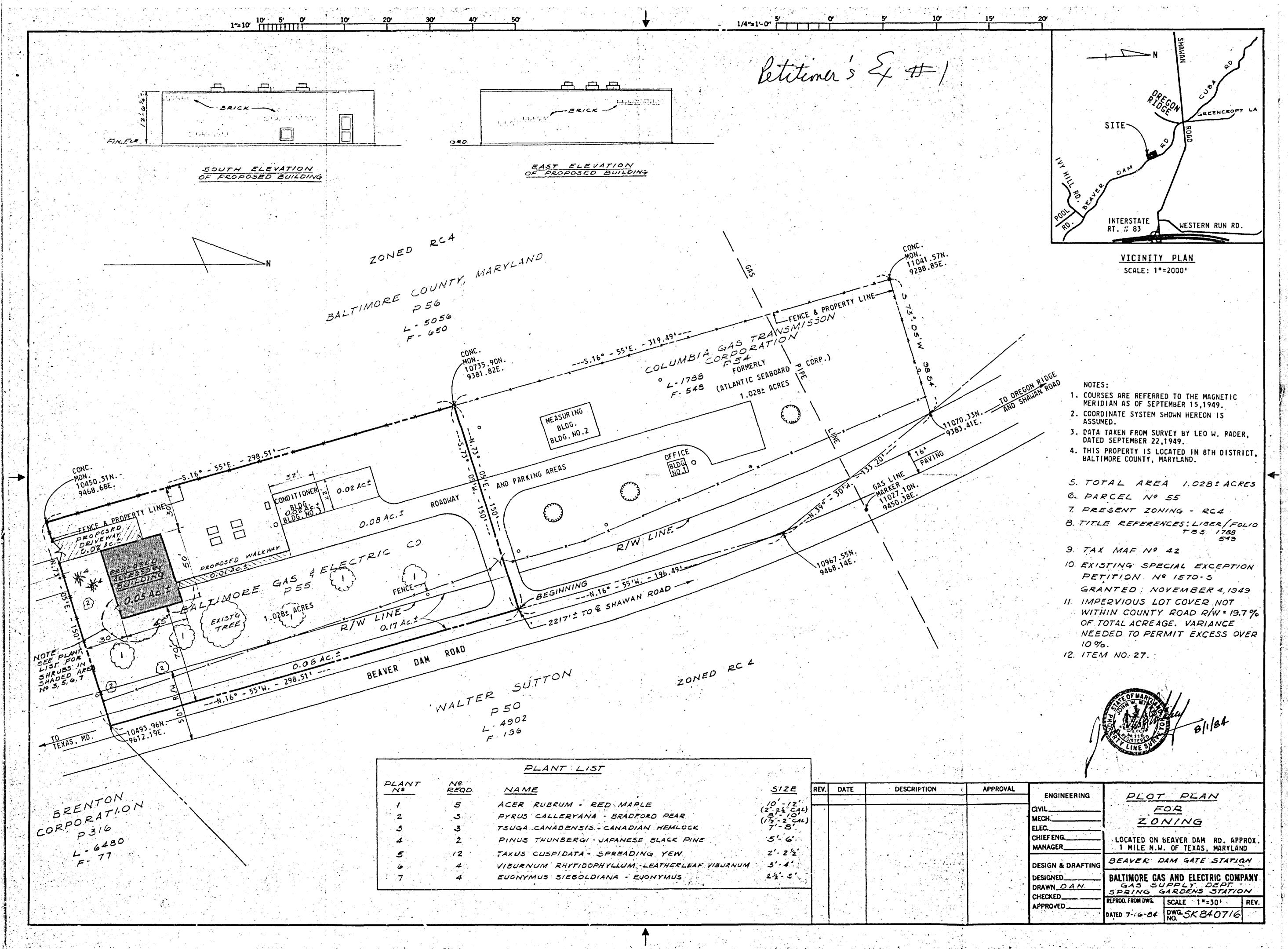
PHOTOGRAPHS, CONTD.



VIEW LOOKING NORTHERLY AT SUBJECT SITE FROM ENTRANCE ROAD TO OREGON RIDGE PAVILION. PROPOSED BUILDING TO BE CONSTRUCTED IN THE FOREGROUND.

PITTINER'S EXHIBIT 2





Pursuant to the advertisement, posting of property, and public hearing on the Petition and it appearing that strict compliance with the Baltimore County Zuning Regulations would/would not result in practical difficulty and unreasonable hardship upon the Petitioner(s) and the granting of the variance(s) requested will/will not adversely affect the health, sai ty, and general welfare of the community, the variance(s) should /should not be granted.

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this f ______, 19_____, that the herein Petition for Variance's) to permit

DEPARTMENT OF PERMITS & LICENSES TOWSON, MARYLAND 21204

August 28, 1984

Hr. Arnold Jablon, Zoning Commissioner Office of Planning and Zoning County Office Building

Comments on Item # 27 Zoning Advisory Committee Meeting are as follows:

Property Owner: Baltimore Gas & Electric Company
Location: SW/S Beaver Dam Road 803' S. Shawan Road
Existing Zoniog: R.C. 4 Proposed Zoning: Special exception for a public utility use (building) for the

metering and regulating of natural gas.

All structures shall conform to the Baltimore County Building Code 1981/Council Bill 4-82 State of Maryland Code for the Handicapped and Aged; and other appli-

B. A building/& other / permit shall be required before beginning construction. C. Residential: Three sets of construction drawings are required to file a permit application. Architect/Engineer seal is/is not required. Non-reproduced seals and signatures are required on Plans and Technical Data.

(D.) Commercial: Three sets of construction drawings with a Maryland Registered

E. An exterior wall erected within 6'0 for Commercial uses or 3'0 for One & Two Family use group of an adjacent lot line shall be of one hour fire resistive construction, no openings permitted within 3'0 of lot lines. A firewall is required if construction is on the lot line, see Table 401, line 2, Section 1407 and Table 1402, also Section 503.2.

F. Requested variance appears to conflict with the Baltimore County Building Code,

G. A charge of occupancy shall be applied for, along with an alteration permit application, and three required sets of drawings indicating how the structure will meet the Code requirements for the proposed change. Drawings may require

H. Before this office can comment on the above structure, please have the owner, thru the services of a Registered in Maryland Architect or Engineer certify to this office, that, the structure for which a proposed change in use is proposed can comply with the height/area requirements of Table 505 and the required con-

SPECIAL NOTE -

Comments This structure shall be classified as a high hazard use and is not permitted within 200 feet of any building classified as Assembly Use Group A or Institutional Use Group "I". See Section 601 for explosion venting and Section 600.7 as to restricted locations. Plans does not show structures or uses of adjoining properties.

NOTE: These comments reflect only on the information provided by the drawings submitted to the office of Planning and Zoning and are not intended to be construed as the full extent of any permit. If desired, additional information may be obtained by visiting Room 122 (Plans Review) at 111 W. Chesapeake Ave.,

Very truly yours, Marko E. Sunham Charles E. Burnham, Chief Plans Review

Pursuant to the advertisement, posting of property, and public hearing on the Petition and it appearing that by reason of the requirements of Section 502.1 of the Baltimore County Zoning

RE: PETITION FOR SPECIAL EXCEPTION : BEFORE THE ZONING COMMISSIONER PETITION FOR VARIANCES NW/S Beaver Dam Rd., 2,217' SE : OF BALTIMORE COUNTY of the Centerline of Shawan Rd.,

BALTIMOPE GAS AND ELECTRIC : Case No. 85-87-XA

ENTRY OF APPEARANCE

:::::::

Please enter the appearance of the People's Counsel in the above-captioned matter. Notices should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Phyllis Cole Friedman
People's Counsel for Baltimore County

leter Max Turneman Deputy People's Counsel Rm. 223, Court House Towson, MD 21204

I HEREBY CERTIFY that on this 4th day of September, 1984, a copy of the foregoing Entry of Appearance was mailed to John B. Howard, Esquire, 210 Allegheny Ave., P. O. Box 5517, Towson, MD 21204, Attorney for Petitioner.

Keter Max Zummen



DEPARTMENT OF TRAFFIC ENGINEERING TOWSON, MARYLAND 21204

STEPHEN E. COLLINS DIRECTOR

August 13, 1984

Mr. Arnold Jablon Zoning Commissioner County Office Building Towson, Maryland 21204

> Property Owner: Existing Zoning: R.C.4

-ZAC- Meeting of August 7, 1984 Baltimore Gas and Electric Company SW/S Beaver Dam Road 803' S. Shawan Road Proposed Zoning: Special Exception for a public utility use (building) for the metering and regulating of natural gas. Variance to permit a side and rear yard setback of 30' in lieu of the required 50' and 70' setback to the c/l of the street in lieu of the required 100' and to permit 22.4% lot coverage in lieu of the required

Acres: 1.028 District: 8th

Dear Mr. Jablon:

problems.

MSF/com

The proposed zoning changes are not expected to cause any traffic The plan should be revised for the following items.

1. The gate to the site should be moved as far back from Beaver Dam Road as possible.

2. Show access to driveway proposed at the southwest corner of

BALTIMORE COUNTY
FIRE DEPARTMENT
TOWSON, MARYLAND 21204-2586

PAUL H. REINCKE CHIEF

Mr. Arnold Jablon Zoning Commissioner

Office of Planning and Zoning Baltimore County Office Building Towson, MD 21204

Attention: Nick Commodari, Chairman Zoning Plans Advisory Committee

RE: Property Owner: Baltimore Gas and Electric Co. Location: SW/S Beaver Dam Rd. 803' S. Shawan Road

Zoning Agenda: Meeting of 8/7/84 Item No.: 27

August 10, 1984

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

() 1. Fire hydrants for the referenced property are required and shall be located at intervals or _____ feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.

() 2. A second means of vehicle access is required for the site.

() 3. The vehicle dead end condition shown a

EXCEEDS the maximum allowed by the Fire Department.

() 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

(x) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1976 Edition prior

() 6. Site plans are approved, as drawn.

() 7. The Fire Prevention Bureau has no comments, at this time.

Special Inspection Division

RE: PETITION FOR SPECIAL * BEFORE THE Beginning at Centerline of Beaver Dam Rd., 2217' SE of Centerline of Shawan Rd.. 8th District

COMPANY, Petitioner

PETITION FOR VARIANCES * DEPUTY ZONING COMMISSIONER * OF BALTIMORE COUNTY

Law a total a sing an individual and individual sing

Case No. 85-87-XA BALTIMORE GAS & ELECTRIC

* * * * * * *

The Petitioner herein, the Baltimore Gas & Electric Company ("BG&E"), requests a special exception to allow a public utility use for the metering and regulating of natural gas and variances to permit side and rear yard setbacks of 30' in lieu of the required 50' and a front yard setback of 70' in lieu of the required 100' (herein the "setback variances"). as well as a variance to permit greater than 10% coverage of the RC-4 zoned parcel by impermeable surfaces (herein the "impermeable surface variance").

In reference to the impermeable surface variance, the parties tentatively agreed that it would be moot upon the following conditions:

1. Baltimore County, Maryland would have to agree to restrict its use of land above a contiguous pipeline easement owned by BG&E and such agreement(s) shall be recorded in the Land Records of Baltimore County.

2. The area of the easement so restricted would be sufficient so that, in combination with the uncovered area on the subject site, the amount of impermeable surface on the site would be brought under the 10% meximum.

3. All parties would have to agree to the form and sufficiency of the documents prepared to carry out this intent, with a view to insuring the integrity and permanence of the restrictions.

4. There would have to be confirmation by the County Office of Law, in writing, of the authority of the County to enter into such restrictions.

The County Board of Appeals of Baltimore County had occasion previously to decide upon Pleasant Hill Chapel's requested variance to Section 1A03.4B5 (the maximum 10% impermeable restriction in RC-4 zones) and to consider the type of land transactions which might satisfactorily moot or legally satisfy the requirement. In that case, No. 82-98-A, the Board conditioned its approval upon language in the Order, plat, and easement providing the perpetual maintenance of the specified terms, conditions and restrictions without limitation; the provision that the grant is effective only so long as the easement is not limited or restricted in any manner, or until extinguished in part or in whole by a later Order of the County Eoard of Appeals; the references to the purposes of

the arrangement, and the agreement of the parties to the

The same of the sa

easement that no modification of the agreement or alienation of the property shall occur without further Order and approval of the Board; the provision that the agreement may be enforced by duly authorized public officials and/or interested parties; and the reference in the body of the Easement Agreement to the zoning case; and the clause that the conditions of the easement shall not be amended or abandoned by the parties or their successors until further Order of the County Board of Appeals. Futhermore, the Board expressed its special concern for the legislative purpose of environmental protection.

Here, BG&E is a public utility, regulated by the Public Service Commission of the State of Maryland. It has presented uncontradicted testimony that its proposal furthers the public interest because it will pass on all of the anticipated reduction in its cost of purchase of natural gas to the rate-paying public. It is also noteworthy that BG&E has an existing special exception at the site since November 4, 1949. Accordingly, the interest of BG&E, a public utility in the proposed Beaver Dam Gate Station must be considered along with the goal of preserving the natural resources and water supply watersheds of Baltimore County In this context, the decision in Pleasant Hill Chapel may be adapted to the unique circumastances in this case.

reason of the requirements of Section 411 and 502.1 having been met and the health, safety and general welfare of the community not being adversely affected, the special exception and setback variances should be granted.

Therefore, it is ORDERED by the Deputy Zoning Commissioner of Baltimore County this 12 day of Scenber . 1984, that the petition for special exception for a public utility use is GRANTED, the petition for variances from side, rear and from yard setbacks, is GRANTED, and, pursuant to the findings above, the impermeable surface variance is rendered moot subject to the following conditions and restrictions:

1. The Baltimore Gas and Electic Company shall enter into an appropriate agreement(s) with Baltimore County, Maryland, so as to prohibit impermeable coverage or surfaces overlying the pipeline easement, sufficient so that, in combination with the area of the subject site, the impermeable surface is then less than or equal to the 10% permitted maximum coverage pursuant to Section 1A03.4B5, and the said agreement(s) shall provide:

(a) The terms. conditions and restrictions stated in the Agreement(s) shall also be incorporated in a revised site plan, all to be included within this case

(b) The said Agreement(s) are enforceable by any duly authorized public official.

The Petitioner's requests are, in effect, a request for an amendment to a special exception granted on November 4, 1949, Case No. 1570-S, and for variances to enlarge an existing facility for the metering and regulating of natural gas and construct a new building or station. Thus, the Petitioner has the burden of satisfying the requirements of Sections 411 and 502.1 BCZR for the setback variances.

The Petitioner presented testimony through C. W. Crooks, Jr., General Supervisor of Planning and Engineering for BG&E, and Mr. Robert W. Pohl, Project Manager for the subject facility. Both witnesses testified that the proposed use would be conducted without detriment to the neighborhood and would not adversely affect the public interest.

Also appearing on behalf of Petitioner was Mr. Bernard Semon, a licensed real estate appraiser, who testified that operation of this facility would not adversely affect surrounding property values.

Mr. Dennis Sutton, a neighbor of the subject site, complained of noise emanating from the site. Mr. Pohl acknowledged that, in the absence of the building covering it, the operation was producing noise at levels around 70 dBa. He testified, however, that following construction, the levels would be reduced to those permitted under State law. Mr. Sutton also expressed

concern about the appearance of the facility, but stated generally that BG&E had been reasonably cooperative throughout the years.

It appears from the testimony and evidence presented that, aside from the question of the impermeable surface variance, the proposed use will not be detrimental to the health, safety or general welfare of the locality, nor tend to create congestion in roads, streets, or alleys therein, nor be inconsistent with the purposes of the property's zoning classification, nor in any other way inconsistent with the spirit and intent of the BCZR.

Therefore, after reviewing all of the testimony and evidence presented, it appears that this amendment to an existing special exception, as applied for, should be granted, with certain conditions and restrictions as more fully described below.

With regard to Petitioner's setback variances, an area diriance may be granted where strict application of the zoning regulation to the Petitioner and his property would cause practical difficulty. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance a Petitioner must prove the following:

1. That strict compliance with the requirement would reasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome:

2. That the grant would do substantial injustice to applicant as well as other property owners in the district or that a lessor relaxation than that applied for would give substantial relief; and

3. That relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured. Anderson v. Board of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variances are granted, such uses proposed would not be contrary to the spirit and intent of the BCZR and would not result in substantial detriment to the public good. Moreover, if the requested setback variances are not granted, a practical difficulty or unreasonable hardship would result. since, without the setback variances, there could be no facility as proposed and the special exception would be rendered meaningless.

Therefore, after due consideration of all testimony and evidence, it appears that the setback variances should be granted.

With regard to the impermeable surface variance, the satisfaction of the stated conditions will allow the spirit and intent of Section 1A03.4.B.5 of the BCZR to be met and render the requested variance moot.

Pursuant to the advertisement, posting of property, a public hearing held, and it appearing that by

2. The grant of the within special exception is not effective until approval by the Deputy Zoning Commissioner following submission of the aforesaid Agreement(s) and revised plat, and until recordation of the Agreement(s) among the Land Records of Baltimore

3. Additionally, the within special exception shall be granted only so long as any approved agreement(s) is not limited or restricted in any manner or until modified in part or in whole by later Order of the Zoning Commissioner, as provided in said agreement(s).

 No modification of any approved agreement(s) or alienation of any property which is the subject of this case shall occur without further Order and approval of the Zoning Commissioner. Any proposed or actual amendment or abandonment by the parties or their successors of any conditions of the approved agreement(s) shall be subject to further Order of the Zoning Commissioner. These requirements shall not apply to a change of ownership or corporate reorganization which preserves the use approved in this Order provided that prior written notice is given to the transferee with a copy to the Zoning Commissioner.

5. The grant of the within special exception is also subject to the prior written confirmation of the Baltimore County Office of Law that Baltimore County, Maryland is authorized to enter into the subject

agreement(s), a copy of which shall be included in this

all requirements of the Baltimore County Landscaping

7. The revised site plan referred to in Paragraph 2(a) above shall also eliminate the proposed southwest driveway as shown on Petitioner's Exhibit 1.

8. The Petitioner shall comply with State Regulations pertinent to allowable noise levels, and further, noise generated in conjunction with this proposed

Consented to by:

Attorneys for Petitioner Peter May Zummerman

Peter Max Zimmerman Deputy Peoples Counsel

BALTIMORE COUNTY
OFFICE OF LAW OFFICE OF LAW
TOWSON, MARYLAND 21204

MALCOLM F. SPICER, JR. COUNTY ATTORNEY

Peter Max Zimmerman, Esquire Deputy People's Counsel Second Floor - Court House

Towson, Maryland 21204 Re: Baltimore Gas & Electric Company, Petitioner Zoning Case #85 87 XA

Dear Mr. Zimmerman:

Baltimore County has authority to enter into an agreement with the Baltimore Gas & Electric Company to provide for restricting the right of Paltimore County to cover B.G.&E.'s easement area with an impermeable surface to protect the open space and preserve the watershed area of the County.

> Very truly yours Hully & Thispure Deputy County Attorney

SJS:gh

County.

6. The subject site shall be landscaped and meet

structure shall not exceed 55 dBa as measured at Petitioner's property lines.

Baltimore County

Deputy Zoning Commissioner of

December 5, 1984

THIS AGREEMENT, has been entered into on this λ_{ij}^{ij} day , 1984, by BALTIMORE GAS & ELECTRIC COMPANY, a of Normby 30 Maryland corporation (hereinafter called "BG&E"), and BALTIMORE COUNTY, MARYLAND, a body corporate and politic (hereinafter called "the County").

RECITALS:

- A. BG&E is the owner of a parcel of land containing approximately one (1) acre located on the west side of Beaver Dam Road in the Eighth Election District of Baltimore County, Maryland, upon which it operates a gate station for the metering and regulating of natural gas (hereinafter called "the BG&E Parcel").
- B. At Case Number 85-87-XA, before the Deputy Zoning Commissioner of Baltimore County. BG&E obtained a special exception to allow a public utility use for the metering and regulating of natural gas and certain variances from side and rear yard set backs on the BG&E parcel. BG&E also requested a variance to permit greater than ten percent coverage of the R.C. 4 zone parcel by impermeable surfaces.
- The parties agreed that the variance would be moot if BG&E agreed to prohibit impermeable coverage for surfaces overlying a certain pipeline easement more specifically described below, suffic ent so that, in combination with the area of the subject site, impermeable surface was less than or

EXHIBIT A

equal to the ten percent permitted maximum under Section 1A03.4B5 of the Baltimore County Zoning Regulations.

- C. BG&E is also the owner of a 20 foot wide gas transmission pipeline easement extending to the BG&E Parcel over land owned by the County (commonly referred to as the Oregon Ridge Park) by virtue of that certain Deed, Bill of Sale and Agreement, dated April 28, 1967 from Atlantic Seaboard Corporation recorded among the Land Records of Baltimore County in Liber E.H.K. Jr., No. 4753 at folio 056 (hereinafter called "the BG&E Easement Area").
- protecting the open space and watershed protection areas in the restrictions be placed upon the BG&E Easement Area in order to permit BG&E to construct certain additional improvements upon the BG&E Parcel in compliance with the zoning regulations described in paragraph B.

AGREEMENTS:

cause to be covered all or any portion of the BG&E Easement Area with impermeable surfaces (such as structures or pavements) for a distance extending two thousand (2,000) feet westerly from the point where the BG&E Easement Area intersects with the property line of the BG&E parcel. The BG&E Easement Area is shown on the

site plan entitled Pipeline Easement and filed and approved by Order of the Deputy Zoning Commissioner at Case Number 85-87-XA.

- 2. There shall be no modification of this Agreement or alienation, restriction, or limitation of the BG&E Easement Area without further order and approval of the Zoning Commissioner of Baltimore County. This requirement shall not apply to a change of ownership or corporate reorganization which preserves the use approved in the Zoning Commissioner's Order provided that prior written notice is given to the transferee and a copy to the Zoning Commissioner.
- 3. The covenants and restrictions set forth herein are intended to run with and be binding upon the BG&E Easement Area the parties hereto and their respective successors and the grantees of their respective properties; and, they are intended to inure to the benefit of and be enforceable by each of the parties hereto, their successors and the grantees of their respective properties and by any duly authorized public official.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

WITNESS:

EALTIMORE GAS & ELECTRIC COMPANY

Approved as to form and legal sufficiency

By: Stanley J Schapiro
Deputy County Attorney

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY that on this 26th day of Rovember 1984, before me, a Notary Public in and for the State aforesaid, personally appeared Norman J. Bownaker who acknowledged himself to be the resident of BALTIMORE GAS & ELECTRIC COMPANY, a Maryland corporation, and that he, as such Vice President being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the Corporation by himself as Vice President.

AS WITNESS my hand and notarial seal.

My Commission Expires: July 1, 1986.

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

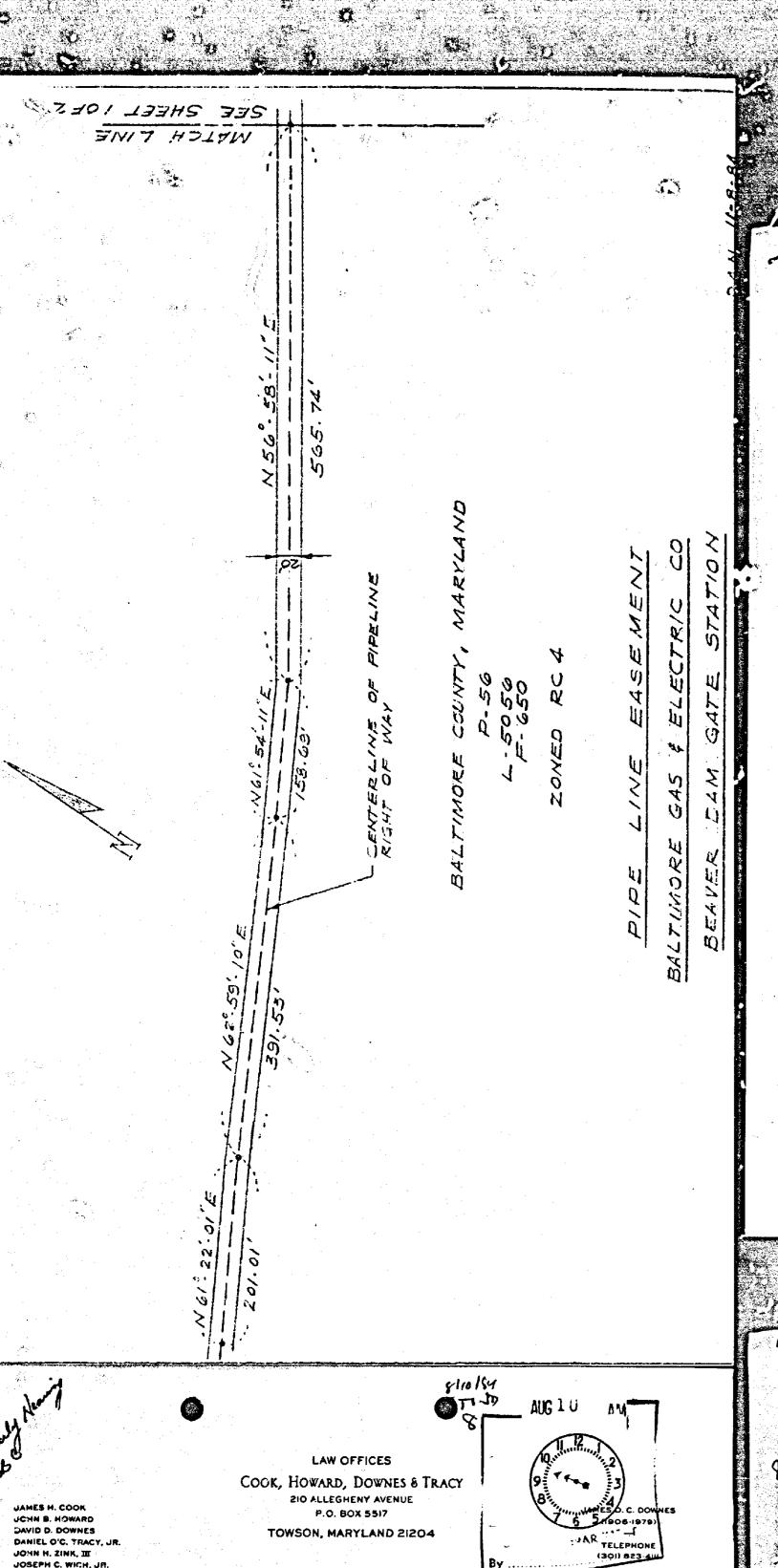
I HEREBY CERTIFY that on this 29th day of Kotenley. 1984, before me, a Notary Public in and for the State aforesaid, personally appeared DONALD P. HUTCHINSON who acknowledged himself to be the County Executive of BALTIMORE COUNTY, MARYLAND a body corporate and politic, and that he, as such County Executive, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the Corporation by himself as County Executive.

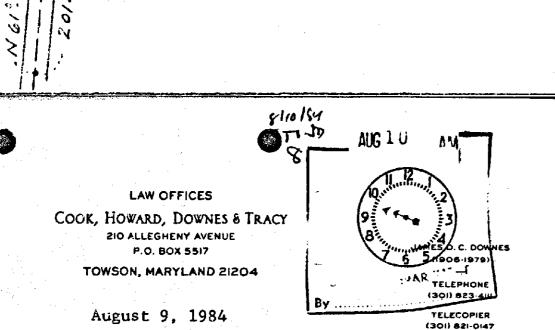
AS WITNESS my hand and notarial seal.

EXHIBIT C ----- N 55°- 28'- 30" E ---N56 58 11 E 565.74 --. ... 7/6.38'.. .. - CENTERLINE OF PIPELINE RIGHT OF WAY BALTIMORE COUNTY, MARYLAND P 56 L-5056 F-650 ZONED RC 4 PIPE LINE EASEMENT BALTIMORE GAS & ELECTRIC CO BEAVER DAM GATE STATION

D. In furtherance of Baltimore County's interest in County, the parties hereto mutually agree that certain

1. BG&E and the County each hereby mutually covenant and agree that they will not at any time hereafter cover or





Mr. James E. Dyer Zoning Supervisor Office of Zoning Baltimore County Office Building Towson, Maryland 21204

> RE: Petition for Special Exception by Baltimore Gas & Electric G. Item No. 27

Dear Mr. Dyer:

HENRY B. PECK, JR.

THOMAS L HUDSON

C. CAREY DEELEY, JR.

ROBERT A. HOFFMAN

DEBORAH C. DOPKIN

CYNTHIA MAMANI

M. KING HILL, III

HERBERT R. O'CONOR. I

GEORGE K. REYNOLDS, I

Baltimore Gas & Electric Company has recently filed a Petition for Special Exception to erect a natural gas gate station in an RC 4 zone. The nature of the instruments, controls, valves and regulators involved in the use of such a gate station are very susceptible to damage in inclement weather. In order to begin construction before the onset of colder weather Baltimore Gas & Electric respectfully requests an expedited hearing date on this petition.

If you have any questions regarding this matter, please do not hesitate to call.

ce: William E. Colburn

PHYLLIS COLE FRIEDMAN

PEOPLE'S COUNSEL

BALTIMORE COUNTY, MARYLAND PEOPLE'S COUNSEL OLD COURT HOUSE TOWSON, MARYLAND 21204 494-2188

PETER MAX ZIMMERMAN DEPUTY PEOPLE'S COUNSEL

September 26, 1984

The Honorable Arnold Jablon Zoning Commissioner The Honorable

Deputy Zoning Commissioner

County Office Building

Towson, Maryland 21204

✓ Jean M. H. Jung

RE: Haussner Family Ltd. Partnership, Petitioner Zoning Case No. 85-83-SPHA (Item 127; Baltimore Gas & Electric Co., Petitioner Zoning Case No. 85-87-XA (Item 27)

Hearings were held in the above cases, respectively, on September 24 and 25, 1984. In both cases, the parties have tentatively agreed that the variance request pertinent to Section 1A03.4B5 may be mooted and the proposed development approved, subject to the working out and documentation of satisfactory land restrictions and/or agreements.

In the Haussner case, the Petitioner is to draft restrictive covenants. In the Baltimore Gas & Electric Co. case, Petitioner is to seek an agreement from Baltimore County never to improve its property overlying specified pipe-

To facilitate working toward this goal, I am enclosing the following:

1. Copy of the Opinion in Pleasant Hill Chapel, Inc., Case No. 82-98-A;

2. Copy of letter dated October 8, 1982 from J. Carroll Holzer, Esquire, to Keith Franz, Chairman, County Board of Appeals;

3. Easement Agreement dated September 15, 1982;

4. Plat accompanying County Board of Appeals Order dated November 16, 1982.

Please note the language in the Order, plat, and easement conditioning the approval upon the perpetual maintenance of the specified terms, conditions and restrictions without limitation; the provision that the grant is effective

The Honorable Arnold Jablon Zoning Commissioner

September 26, 1984

The Honorable Jean M. H. Jung Deputy Zoning Commissioner

only so long as the easement is not limited or restricted in any manner, or until extinguished in part or in whole by a later Order of the County Board of Appeals; the references to the purposes of the arrangement, and the agreement of the parties to the easement that no modification of the agreement or alienation of the property shall occur without further Order and approval of the Board; the provision that the agreement may be enforced by duly authorized public officials and/or interested parties; and the reference in the body of the Easement Agreement to the zoning case; and the clause that the conditions of the easement shall not be amended or abandoned by the parties or their successors until further Order of the County Board of Appeals.

Any restrictive covenant, revised plat, or other agreement worked out in the above cases should at least contain language similar to that included in the resolution in the Pleasant Hill Chapel case, and we would oppose any approval based on any agreement or Order which does not substantially include these provisions. Furthermore, in the Baltimore Gas & Electric Co. case, because Baltimore County, Maryland may be a party, we would require a written Opinion of the County Office of Law that it has the authority to make a perpetual grant or commitment of the property overlying the subject pipeline easements, and that the easements themselves are proper.

I trust that, because of the complexity of the proposed resolution toward which we are working, the above will clarify some of the details which we believe are necessary for an effective land use restriction.

> Very truly yours, eter Mat Lummerum Peter Max Zimmerman Deputy People's Counsel

cc: John B. Howard, Esquire Dennis Sutton Malcolm F. Spicer, Jr., Esquire Malcolm S. Aldrich Paul J. Solomon James G. Hoswell Eugene A. Bober

Enclosures

PMZ:sh

SALTIMORE COUNTY, MERYLAND INTER-OFFICE CORRESPONDENCE TO Data Processing Operations FROM Office of Personnel SUBJECT Job Request - Job #P132307...Contracts Administration Report Please schedule the subject job number to be processed and completed . The following header record information must be keyed and included with the job control. Option 1 = Department/Unit/Employee Name 2 = Unit Employee Name 3 = Department/Employee Name 4 = Department/Unit/Program/Employee Name MCEA Tape...Enter Y for YES, else leave blank (Y valid for option 4 only) Office of Personnel



PHYLLIS COLE FRIEDMAN

The Honorable

Arnold Jablon

Zoning Commissioner

Towson, MD 21204

County Office Building

People's Commit

PETER MAX ZIMMERMAN

Deputy Pupils's County

9/20/4 Enclosures to this letter are Baltimore County, Maryland PEOPLE'S COUNSEL OLD COURT HOUSE

+85-83-SPHA TOWSON, MARYLAND 21204

September 18, 1984 Chkd

RE: Haussner Family Ltd. Partnership, Petitioner, Case NO. 85-83-SPHA; Baltimore Gas & Electric Co., Petitioner, Case No. 85-87-XA

Dear Commissioner Jablon:

Petitioners have requested variances to the requirement that no more than 10% of any tract in an R.C. 4 zone be covered by an impermeable surface. BCZR 1.A03.4B.5. This regulation was the subject of extensive review in Pleasant Hill Chapel, Inc., Case No. 82-98-A, and was further considered in State Highway Administration, No. 84-318-XA. In Pleasant Hill, following an evidentiary hearing before the County Board of Appeals, the Petitioner agreed to acquire easements to surrounding property to achieve the required 10%, so that the variance became unnecessary, as reflected in the enclosed decision dated November 16, 1982. In State Highway Administration, a land transfer and merger was accomplished, rendering the requested variance moot, as shown in the enclosed Order and Amended Order of the Zoning Commissioner, dated, respectively, May 24 and June

This office has advocated strict adherence to the standard not only because of the environmental concerns, but also because of the legislative history. In Pleasant Hill, Paul J. Solomon testified to the role of the standard in promoting protection of public water supply watersheds. In order to maintain a satisfactory level of water quality, it was found necessary and appropriate to control the amount of impervious area. Following a review of the literature, discussions with experts in the field, and research conducted by the Office of Planning and Zoning, the Planning staff and Planning Board recommended, and the County Council found that the 10% requirement was reasonably related to the environmental objective and was feasible generally throughout the county. Rather than recite in detail the step-by-step analysis of Mr. Solomon, I enclose the transcript of Mr. Solomon's testimony before the Board of Appeals on May 6, 1982, together with the following enclosures:

1. Bill 45-82.

2. Baltimore County Planning Board Recommendation adopted November 5, 1981.

The Honorable September 18, 1984 Armold Jablon Zoning Commissioner

- 2 -

3. Planning staff recommendation in Pleasant Hill dated September 22, 1981.

5. Excerpt of County Council Public Hearing (Norman E. Gerber, Planning Director) of March 16, 1982.

4. Baltimore County Planning Board Public Hearing of October 1,

6. U. S. Geological Circular 554, the rology, etc., Luna B. Leopold,

7. Water Resources Bulletin, Urbanization and Stream Quality Improvement, Richard D. Klein, August, 1979.

A review of the above demonstrates that careful consideration went into the impermeable requirement, and that it is a significant link in the legal chain contributing to maintenance of water quality in Baltimore County. Moreover, a review of the legislative history, focusing on the Planning Board recommendation and the testimony and comments at the Planning Board and public hearings, reflects a legislative intent that variances not be granted.

Accordingly, we would oppose the granting of any variance in the above cases. As has been our practice in the past, however, we are willing and able to consider proposals involving easements, land transfers, or other appropriate arrangements so that sufficient land becomes available effectively to satisfy the requirement and/or moot the variance.

Very truly yours,

tela Mal commercia Deputy People's Counsel

cc: John B. Howard, Esquire Attorney for Petitioners in B.G.&E. & Haussner Ltd. Partnership Cases.



BALTIMORE COUNTY OFFICE OF PLANNING & ZONING TOWSON, MARYLAND 21204 494-3353

ARNOLD JABLON ZONING COMMISSIONER

JEAN M. H. JUNG DEPUTY ZONING COMMISSIONER

and Variances NW/S of Beaver Dam Rd., 2,217' SE of the center line of Shawan Rd. - 8th Election District Baltimore Gas and Electric Co. - Petitioner

John B. Howard, Esquire P.O. Box 5517 210 Allegheny Avenue Towson, Maryland 21204 RE: Petitions for Special Exception No. 85-87-XA (Item No. 27) Dear Mr. Howard: I have this date passed my Order in the above captioned matter in accordance with the attached Order and Exhibits A,B, and C. Deputy Zoning Commissioner Attachments cc: William Colburn, Esquire Baltimore Gas and Electric Co. Charles Center P.O. Box 1475 Baltimore, Maryland 21203 Mr. Dennis Sutton 13500 Beaver Dam Road 5 Cockeysville, Maryland 21030 People's Counsel